

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: McKenzie Dean	Team: Squad #2	CCRB Case #: 202100445	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 06/04/2020 10:34 PM	Location of Incident: Fulton Street and Washington Avenue	Precinct: 88	18 Mo. SOL 12/4/2021	EO SOL 5/4/2022	
Date/Time CV Reported Wed, 06/17/2020 1:02 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 06/17/2020 1:02 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Luis Alicea	00339	929604	088 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Clifford Perch	17833	930929	088 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Luis Alicea	Abuse: Police Officer Luis Alicea took photographs/recordings of § 87(2)(b) [REDACTED]	[REDACTED]
B.POM Luis Alicea	Abuse: Police Officer Luis Alicea took photographs/recordings of individuals	[REDACTED]

Case Summary

On June 5, 2020, § 87(2)(b) filed this complaint with the CCRB online (**BR 01**). § 87(2)(g)

At approximately 10:34 PM on June 4, 2020, § 87(2)(b) along with a group of unidentified individuals, were observing a protest at Fulton Street and Washington Avenue in Brooklyn. Police Officer Luis Alicea took photographs with a cell phone, which captured civilians at the scene (**Allegations A and B: Abuse of authority – Photography/videography**, § 87(2)(g)). § 87(2)(b) was not arrested or summonsed during this incident.

Four cell phone videos were provided by § 87(2)(b). The footage is in IAs #281-284 (**BR 03; BR 04; BR 05; BR 06**) and are summarized in IA #49 (**BR 02**). The nature of the incident did not require the use of BWC as per the Patrol Guide.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Luis Alicea took photographs/recordings of § 87(2)(b)

Allegation (B) Abuse of Authority: Police Officer Luis Alicea took photographs/recordings of individuals.

On June 5, 2020, § 87(2)(b) provided a telephone statement (**BR 07**). On June 17, 2020, § 87(2)(b) was interviewed by the CCRB (**BR 08**). Police Officer Luis Alicea was interviewed on October 1, 2020 (**BR 09**).

It is undisputed that Police Officer Alicea, and his partner, Police Officer Clifford Perch, were standing on the corner of Washington Avenue and Fulton Street during a protest. Police Officer Alicea took photographs of the scene on his personal phone.

§ 87(2)(b) stated that while she was standing at the incident location observing a protest, she observed Police Officer Alicea appearing to be taking videos and/or photographs herself and other bystanders on a cell phone. § 87(2)(b) took a video and photograph of Police Officer Alicea doing this (**BR 14**).

Police Officer Alicea stated he took photographs of himself and other officers at the intersection of Washington Avenue and Fulton Street, but he denied taking any videos. He said the photographs were taken on his personal cell phone for “personal” reasons and he did not take any with his departmental phone. Police Officer Alicea acknowledged that civilians were captured in these photographs he took during the incident. Police Officer Alicea said he took multiple photographs in succession, essentially creating a panorama of the scene. During his CCRB interview, he viewed the video and photograph provided by § 87(2)(b) and stated that they depicted him taking photographs on his personal phone. When asked what his understanding of when an officer could take photographs on his personal phone while on duty, Police Officer Alicea stated that he did not know of anything that said whether he could or could not do so.

Patrol Guide Procedure 203-06 (**BR 10**) states officers are prohibited from using any personal electronic/digital device to record video and/or audio or take photographs during any police encounter.

Patrol Guide Procedure 212-71 (**BR 11**) states use of video and/or photographic equipment by operational personnel at demonstrations is appropriate only if a permissible operational objective exists. Video and/or photographic equipment authorized to be used pursuant to this procedure may only be operated by TARU personnel.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB case to which § 87(2)(b) has been a party (**BR 12**).
- Police Officer Luis Alicea has been a member of service for 18 years and has been a subject in six other CCRB complaints and 12 other allegations, two of which have been substantiated. § 87(2)(g)
- 201808535 involved two substantiated force allegations (chokehold and hit against inanimate object) against Police Officer Alicea for which the Board recommended Charges. The NYPD has yet to render a disposition or penalty.

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- According to the Office of Court Administration (OCA), § 87(2)(b) does not have any history of convictions in New York City (**BR 13**).
- As of February 18, 2021, as per the NYC Comptroller's Office, a Notice of Claim has not been filed regarding this incident (**BR 15**).

Squad No.: 2

Investigator: Inv. Dean Inv. Dean 2/18/21
Signature Print Title & Name Date

Squad Leader: Alexander Opoku-Agyemang IM Alexander Opoku-Agyemang 2/18/2021
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date